

ESTTA Tracking number: **ESTTA586672**

Filing date: **02/11/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	NETGEAR, Inc.
Granted to Date of previous extension	02/12/2014
Address	350 East Plumeria Drive San Jose, CA 95134 UNITED STATES

Attorney information	Nathan E. Ferguson Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050 UNITED STATES nferguson@wsgr.com, ahendelman@wsgr.com, trademarks@wsgr.com Phone:650-493-9300
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### Applicant Information

Application No	85867520	Publication date	10/15/2013
Opposition Filing Date	02/11/2014	Opposition Period Ends	02/12/2014
Applicant	Trueship LLC 6501 E. Greenway Pkwy #103 Scottsdale, AZ 85254 AZERBAIJAN		

### Goods/Services Affected by Opposition

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Remote online backup of computer data, namely, remote online backup and portal access of shipping information and activity that is generated from companion shipping software

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3439646	Application Date	08/06/2007
Registration Date	06/03/2008	Foreign Priority Date	NONE
Word Mark	READYNAS		

Design Mark	<b>READYNAS</b>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2005/04/00 First Use In Commerce: 2005/04/00 computer hardware; computer back-up and storage hardware; and computer back-up and storage software


U.S. Registration No.	3800982	Application Date	06/25/2009
Registration Date	06/08/2010	Foreign Priority Date	NONE
Word Mark	READYSHARE		
Design Mark	<b>READYSHARE</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2009/07/00 First Use In Commerce: 2009/07/00 USB (universal serial bus) hardware; USB (universal serial bus) operating software; computer hardware that forms connections for the transfer of electronic data among external hard drives, modems and routers; computer software that enable electronic data stored on a hard drive to be shared simultaneously with multiple computers in a network; computer software for the transfer of electronic data among hard drives, modems and routers		

U.S. Registration No.	4392933	Application Date	10/21/2011
Registration Date	08/27/2013	Foreign Priority Date	NONE
Word Mark	READYDATA		

Design Mark	<b>READYDATA</b>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2012/06/00 First Use In Commerce: 2012/06/00 computer hardware; computer back-up and storage hardware; computer hardware for sharing electronic data files among networked devices; computer storage device for back-up, storage and access of electronic data through local and remote computer networks; US (universal serial bus) hardware; computer hardware that forms connections for the transfer of electronic data among external hard drives, modems and routers; RAID (redundant array of independent disks) controllers

U.S. Registration No.	4471787	Application Date	08/02/2012
Registration Date	01/21/2014	Foreign Priority Date	NONE
Word Mark	READYDROP		
Design Mark	<b>READYDROP</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/09/00 First Use In Commerce: 2012/09/00 computer software for connecting computers, tablets, and mobile devices to a network-attached storage (NAS) device; software for synchronizing multiple computer, tablet, and/or mobile devices with a network-attached storage (NAS) device; computer software for connecting computers, tablets, and mobile devices to a remote storage device to share and access files and information; computer software for establishing and accessing virtual computing infrastructures, networking and storage; software for backup and synchronization of data files		

U.S. Application No.	85741179	Application Date	09/28/2012
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	READYCLOUD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 downloadable software enabling users to remotely access their data storage hardware via a website</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0 providing a website featuring non-downloadable software that enables users to remotely access their data storage hardware</p>		

Attachments	77248301#TMSN.jpeg( bytes ) 77768090#TMSN.jpeg( bytes ) 85453575#TMSN.jpeg( bytes ) 85693586#TMSN.jpeg( bytes ) 85741179#TMSN.jpeg( bytes ) NETGEAR Notice of Opposition.pdf(100836 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nathan E. Ferguson/
Name	Nathan E. Ferguson
Date	02/11/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NETGEAR, Inc.,  
a Delaware corporation,

Opposer,

v.

Trueship LLC,  
an Arizona limited liability company,

Applicant.

**NOTICE OF OPPOSITION**

Application Serial No. 85867520

Published for Opposition on  
October 15, 2013

**NOTICE OF OPPOSITION**

Mark: READYCLOUD

Serial No.: 85867520

International Class: 42

Goods & Services: remote online backup of computer data, namely, remote online backup and portal access of shipping information and activity that is generated from companion shipping software

Filed: March 5, 2013

Published: October 15, 2013

Opposer NETGEAR, Inc. (the “Opposer”), a Delaware corporation with its principal place of business at 350 East Plumeria Drive San Jose, California 95134, believes that it will be damaged by the registration of the mark shown in Application Serial No. 85867520 (the “Application”), and hereby opposes the Application.

As grounds for opposition, Opposer alleges that:

1. Opposer is filing this Notice of Opposition following publication of the Application on October 15, 2013.
2. Opposer has been using the READYNAS mark since at least as early as 2005. Since shortly thereafter, Opposer has been using a growing family of READY-formative marks. Opposer’s READY-formative family of marks currently in use includes READYNAS,

READYSHARE, READYDATA, READYDROP, and READYCLOUD (“READY-Formative Marks”). Opposer has used, and continues to use, the READY-Formative Marks on and in connection with a variety of goods and services. In particular, Opposer uses the READY-Formative Marks in connection with its computer software and hardware for networking, data storage, and accessing media, along with related services.

3. Opposer owns the following United States registrations for READY-Formative Marks:

Mark:	<b>READYNAS</b>
Registration No.:	<b>3439646</b>
Filed:	August 6, 2007
Registered:	June 3, 2008
International Class:	9
Goods & Services:	computer hardware; computer back-up and storage hardware; and computer back-up and storage software

Mark:	<b>READYSHARE</b>
Registration No.:	<b>3800982</b>
Filed:	June 25, 2009
Registered:	June 8, 2010
International Class:	9
Goods & Services:	USB (universal serial bus) hardware; USB (universal serial bus) operating software; computer hardware that forms connections for the transfer of electronic data among external hard drives, modems and routers; computer software that enables electronic data stored on a hard drive to be shared simultaneously with multiple computers in a network; computer software for the transfer of electronic data among hard drives, modems and routers

Mark:	<b>READYDATA</b>
Registration No.:	<b>4392933</b>
Filed:	October 21, 2011
Registered:	August 27, 2014
International Class:	9
Goods & Services:	computer hardware; computer back-up and storage hardware; computer hardware for sharing electronic data files among networked devices; computer storage device for back-up, storage and access of electronic data through local and remote computer networks; US (universal serial bus) hardware; computer hardware that forms connections for the transfer of electronic

data among external hard drives, modems and routers; RAID (redundant array of independent disks) controllers

Mark: **READYDROP**  
Registration No.: **4471787**  
Filed: August 2, 2012  
Registered: January 21, 2014  
International Class: 9  
Goods & Services: computer software for connecting computers, tablets, and mobile devices to a network-attached storage (NAS) device; software for synchronizing multiple computer, tablet, and/or mobile devices with a network-attached storage (NAS) device; computer software for connecting computers, tablets, and mobile devices to a remote storage device to share and access files and information; computer software for establishing and accessing virtual computing infrastructures, networking and storage; software for backup and synchronization of data files

4. Opposer owns a pending applications for the following READY-Formative Mark:

Mark: **READYCLOUD**  
Application Serial No.: **85741179**  
Filed: September 28, 2012  
International Classes: 9 and 42  
Goods & Services: Int. Cl. 9: downloadable software enabling users to remotely access their data storage hardware via a website

Int. Cl. 42: providing a website featuring non-downloadable software that enables users to remotely access their data storage hardware

5. Opposer has long offered and sold its goods and services under its READY-Formative Marks in interstate commerce in the United States.

6. Opposer's use of its READY-Formative Marks have been valid and continuous since the marks' respective dates of first use, and Opposer has not abandoned any of the Current READY-Formative Marks.

7. Opposer's READY-Formative Marks are symbolic of the extensive goodwill and customer recognition built up by Opposer through substantial amounts of time, money, and effort in advertising and promotion, and by virtue of the excellence of its goods and services.

8. Opposer is informed and believes, and therefore alleges, that applicant Trueship LLC (“Applicant”) is an Arizona limited liability company with an address at 6501 E. Greenway Pkwy #103 Scottsdale, Arizona 85254.

9. Opposer is informed and believes, and therefore alleges, that Applicant filed a 1B application on March 5, 2013 to register READYCLOUD as a trademark.

10. Applicant’s application to register READYCLOUD as a trademark covers “Remote online backup of computer data, namely, remote online backup and portal access of shipping information and activity that is generated from companion shipping software” in International Class 42.

11. Opposer is informed and believes, and therefore alleges, that Applicant made no use of the READYCLOUD mark before Opposer adopted and commenced use of its READY-Formative Marks, including Opposer’s identical READYCLOUD mark.

12. Opposer is informed and believes, and therefore alleges, that Applicant made no use of the READYCLOUD mark before Opposer’s constructive first use date for its READYCLOUD mark.

13. Opposer is informed and believes, and therefore alleges, that Applicant made no use of the READYCLOUD mark before 2013.

14. Applicant’s READYCLOUD mark is confusingly similar to Opposer’s READY-Formative family of marks.

15. Applicant’s READYCLOUD mark is identical to Opposer’s READYCLOUD mark.

16. Applicant seeks to register the READYCLOUD mark in connection with services that are highly related to Opposer’s goods and services provided under each of its READY-Formative Marks.

17. Applicant seeks to register the READYCLOUD mark in connection with services that are highly related to Opposer’s goods and services provided under its identical READYCLOUD mark.



18. In view of the similarity of the marks and the substantially similar goods and services of the parties, Applicant's mark so resembles Opposer's family of READY-Formative Marks and each of the marks in its family of READY-Formative Marks as to be likely to cause confusion, to cause mistake, or to deceive.

19. Opposer's READY-Formative Marks are well-known and distinctive trademarks. Opposer's READY-Formative Marks were well-known and distinctive before Applicant filed its application for registration of the READYCLOUD mark.

20. If Applicant is permitted to register READYCLOUD for the services described in the Application, confusion in the trade and in the public is likely to result. Confusion caused by Applicant will damage Opposer and injure its reputation in the trade and with the public. That confusion will also injure the public, in that consumers, upon seeing Applicant's mark used in connection with Applicant's services, are likely to believe that Applicant's services are somehow associated with or approved by Opposer.

WHEREFORE, Opposer prays that Application Serial No. 85867520 be rejected, that no registration be issued to Applicant, and that this opposition be sustained in favor of Opposer.

Please address all communications regarding this Notice of Opposition to:

Aaron D. Hendelman  
Nathan E. Ferguson  
Wilson Sonsini Goodrich & Rosati  
650 Page Mill Road  
Palo Alto, California 94304-1050  
(650) 493-9300  
trademarks@wsgr.com

Dated: February 11, 2014

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

/Nathan E. Ferguson/  
Aaron D. Hendelman  
Nathan E. Ferguson

Attorneys for Opposer  
NETGEAR, Inc.

**CERTIFICATE OF SERVICE BY MAIL**

I, Elvira Minjarez, declare:

I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence would be deposited with the United States Postal Service on this date.

On this date, I served NEATGEAR, Inc.'s **NOTICE OF OPPOSITION** on each person listed below, by placing the document(s) described above in an envelope addressed as indicated below, which I sealed. I placed the envelope(s) for collection and mailing with the United States Postal Service on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

Michael Campillo  
Venable, Campillo, Logan & Meaney P.C.  
1938 East Osborn Road  
Phoenix, Arizona 85016

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on February 11, 2014.

/s/ Elvira Minjarez  
Elvira Minjarez